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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 ELLIOT D. GOODIN,

8 Plaintiff,

9 v.

10 DR. GREGORY BAHDER, and
11 SEAN CALDWELL,

12 Defendants.
13

NO. 2:17-CV-0217-TOR

ORDER OF DISMISSAL WITHOUT
PREJUDICE

14 BEFORE THE COURT is Plaintiff's failure to respond to the Court's Order
15 to Show Cause. ECF No. 14. The Court has reviewed the record and files herein,
16 and is fully informed.

17 Plaintiff, a patient at Eastern State Hospital, is proceeding *pro se* and *in*
18 *forma pauperis*. See ECF No. 4; 6 n.1. Plaintiff filed his first Complaint on June
19 23, 2017. ECF No. 5. On July 7, 2017, the Court screened Plaintiff's Complaint
20 for legal sufficiency pursuant to 28 U.S.C. § 1915(e). ECF No. 6. The Court

1 dismissed Defendant Eastern State Hospital with prejudice and Plaintiff's
2 Complaint without prejudice. *Id.* The Court granted Plaintiff an opportunity to file
3 an amended complaint. *Id.* After reviewing the Second Complaint on August 7,
4 2017, the Court determined that Plaintiff failed to cure the deficiencies in his initial
5 complaint, dismissing his claims without prejudice and with leave to amend. ECF
6 No. 8. On October 5, 2017, Plaintiff filed his Third Complaint (ECF No. 9), which
7 the Court dismissed without prejudice and with leave to amend. ECF No. 11.

8 On January 19, 2018, Plaintiff timely filed his Fourth Complaint. ECF No.
9 12. On March 29, 2018, the Court dismissed Plaintiff's Fourth Complaint with
10 leave to amend. ECF No. 13. The Court instructed Plaintiff that he may file a
11 Fifth Complaint within sixty (60) days of the date of the Order or file the attached
12 Motion to Voluntarily Dismiss within sixty (60) days). *Id.* The Court cautioned
13 Plaintiff that if he failed to file within sixty days, the Court will dismiss the entire
14 case for failure to state a claim under 28 U.S.C. § 1915(e)(2). *Id.* The deadline
15 was set for May 29, 2018, and Plaintiff failed to timely respond.

16 On June 6, 2018, Plaintiff was ordered to show cause, on or before July 9,
17 2018, why this case should not be dismissed for failure to state a claim. ECF No.
18 14. Plaintiff failed to timely respond to the order to show cause.

19 Pursuant to 28 U.S.C. § 1915(a)(3), "[a]n appeal may not be taken *in forma*
20 *pauperis* if the trial court certifies in writing that it is not taken in good faith." The

1 good faith standard is an objective one, and good faith is demonstrated when an
2 individual “seeks appellate review of any issue not frivolous.” *See Coppedge v.*
3 *United States*, 369 U.S. 438, 445 (1962). For purposes of 28 U.S.C. § 1915, an
4 appeal is frivolous if it lacks any arguable basis in law or fact. *Neitzke v. Williams*,
5 490 U.S. 319, 325 (1989).

6 The Court finds that any appeal of this Order would not be taken in good
7 faith and would lack any arguable basis in law or fact. Accordingly, the Court
8 hereby revokes Plaintiff’s *in forma pauperis* status.

9 **ACCORDINGLY, IT IS HEREBY ORDERED:**

10 1. The claims asserted in Plaintiff’s Fourth Complaint (ECF No. 12) are
11 **DISMISSED without prejudice** for failure to state a claim under 28
12 U.S.C. § 1915(e)(2)(B).

13 2. Plaintiff’s *in forma pauperis* status is **REVOKED**.

14 The District Court Executive is directed to enter this Order, enter judgment
15 of dismissal without prejudice, forward a copy to Plaintiff, and **CLOSE** the file.

16 **DATED** July 18, 2018.



Thomas O. Rice
THOMAS O. RICE
Chief United States District Judge